1:Franken et al M, G-5 (ca. 1913-1958) 1960
OF7 Balinese OF7

kĕmimitan), the clan temples (*pura dadia*), and so forth. This cursory survey may be enough to indicate that the village sanctuaries to be discussed below form only one part of the tremendous total of Bali's temples.

The village temples are an element indispensable to the village community. Their maintenance, and the festivals held in them, constitute the object of the village's first and foremost task. This temple service derives from two series of concepts, two basic ideas. The first is that the ground belongs to the gods, and the second that the living population of the *desa* desires to maintain contact with its deceased ancestors.

The former of these basic ideas, that the land belongs to the gods, may be illustrated by quotations from authorities on the subject. Liefrinck cites a passage from a *desa* document regarding the members of the *desa* association – "its members ... have charge over a certain territory, which, however, belongs to the gods" – and goes on to say:

> It is, then, a prime duty of the people of the *desa* to care for these gods, to pay them due homage, and to present them with offerings. Hence temples must be founded and maintained for them, since if that is not done they will take awful revenge.[4]

Elsewhere Liefrinck writes:

> In order to obtain an understanding of the prime rights exercised on the land, we must attempt to visualize for a moment the conception which the Balinese has of the original condition of the land. The whole country then lies in a formless state: the mountains are covered with forest to their very peaks, between them the mountain lakes in their solemn silence; the rivers flow through the valleys, following their course to the sea undisturbed, now slowly, now at a tremendous speed; the hill country and plains they stream through have never been touched by human hands. A few human beings may roam here and there, but they live like animals in the forest, and like animals feed on what the forest has to offer, no more inclined than animals to call anything their property. The whole country seems uninhabited. But it is only seeming, for the gods hover above the land and above the water.
>
> Every mountain is inhabited by a deity, every lake has its goddess, there is not a spot of ground that escapes their influence. They are invisible, but omnipotent. It can hardly be expected that, when people

1:Franken et al M, G-5 (ca. 1913-1948)1960
OF7 Balinese OF7

who have such a conception of matters are asked the question "Whom does the land belong to?" the honest answer can be anything but: "The land, with everything that grows on it, the water that flows through it, the air that envelops it, the rock it holds in its womb, belongs without exception or limitation to the invisible gods and spirits who inhabit it."

This conception glimmers through in every conversation about land rights one has with Balinese who are in the position to state their opinion open-mindedly, and is completely natural for persons at their stage of evolution ... If any confirmation of the assertion that this is really their opinion is needed, it might be found in certain village writings, for example the *awig-awig* of Kubutambahan, which explicitly state that in certain cases grounds which someone is farming can be taken away from him if he does not meet his obligations, "since they are the property of the deity".

... Also completely in keeping with this notion of the overriding rights of the deity is the fact that land is never farmed before permission has been requested from the local deity and that as soon as cultivation has begun nothing is considered more essential than to erect an altar to the deity as an expression of gratitude. A part of the crops harvested from the lands should be presented to the deity as an offering, and whenever wood and other materials for the repair of temples or altars are needed they are taken where they are best to be found, regardless of whatever rights persons may exercise on the lands where they occur ...

All in all, the above removes every doubt that, in the view of the Balinese, the land is owned by the gods who inhabit the country.[3]

Korn, likewise, says:

The religious character of the Balinese village community determines its whole field of activity: from that character it derives its competence to claim not only the spare time of its members but also the labour of their wives and children for the sake of a great number of solemnities and events. On the basis of that religious character it interferes with family and property affairs, and its hand of punishment is applied almost exclusively as a result of religious considerations.

What determines this religious character? The notion that it is the task either of a representative of one family, usually a *pasik* [see below], of the representatives of certain families, or of all the members of the community united in a *desa* association to see that a certain area remains pure. The very territory of the *desa*, indicated by such terms as *padesan*, *pŕbumian*, *wéwéngkon desa*, *bumi*, *gumi palasan*, *payar*, *kuhum*, is itself an object of veneration...

The village territory, we have seen, needs to be kept pure. The consequence of this principle is an immense series of commandments and pro-

1:Franken et al M, G-5 (ca. 1913-1958) 1960
OF7 Balinese OF7

meeting except instalments of a life-long fine, which are collected at home.

The services requisitioned by the *desa* are almost all of them connected with religious matters. The preparation of the offerings demands a great deal of work, which must be done by the male members of the *desa*. A person who fails to fulfil his duty is fittingly punished, and even those who are prevented by illness from performing their services are confined to their homes for three days. The men also have the duty of appearing with their fighting cocks on certain occasions, and the women *desa* members are required to rear pigs to be sold to the *desa* for fixed low prices in order to be used in the purification rites.

These duties of *desa* membership are counterbalanced by certain advantages. Everyone who takes an active part in the *desa* offering ceremonies enjoys the yield from a *bukti*. The *desa* members, including the officials, have a different share each year; the plots for the others are fixed *sawahs*. Since the number of core villagers is variable, the number of *buktis* differs from year to year, and hence also the number of plots left over as *chariks achi*.

Each of the *pĕngluduhans* except the newest pair has as his share two and a half plots, while the two most recent *pĕngluduhans* have four plots each for the first year. *Desa* members of the higher ranks also have four plots each. The shares are reapportioned each year on the first day of Kasanga, the ninth month. On this date the *desa* members gather in front of the *bale agung*, where the *klihans bahan* sketch a rough map of the *buktis* and in order of seniority the members make their choice. (Nowhere else on Bali is a map used in this way.)

A newly married person does not receive a share until the next apportionment, while if, as a result of the marriage of a child, a man loses his *desa* membership before the rice is ripe, he forfeits his right to his yield, which instead goes to the *desa* treasury. Consequently most marriages take place in the month of Kasa, when the rice is golden yellow in the fields – this in contrast to the rest of Bali, where marriages usually take place after the harvest, because there is then money for the wedding.

2: Covarrubias R-5 (1930-1933) 1938
OF7 Bali OF7

Such is the obsession for
184 isolation in Tenganan that there is an official specially appointed
361 to sweep the village after the visits of strangers, to obliterate their
[609] footprints.

We became acquainted with I-Tanggú, a youngish man with
[115] fingernails four inches long, who was the *perbekel* of Tenganan, the representative of his village with the Dutch Government. We were surprised to find him quite sociable. Once we played host to him in Den Pasar and from then on we were often invited to visit Tenganan. Unlike the rest of the villages in Bali, there is hardly any vegetation around the Tenganan houses, which are all exactly alike and are arranged in rows on each side of stone-paved avenues. In the central place is the council house where the Elders meet, a long shed about ten feet wide by some seventy feet long, strongly built and apparently very old. Farther along are other buildings for public use, the purpose of some kept a secret. The most curious are the unique mill for grinding *kemiri*
[252] nuts to obtain oil, and the wooden Ferris-wheel, usually dis-
[788] mantled, in which the women revolve for hours in a strange rite.
342 The dwelling of I-Tanggú is just like all the others: a small gate reached by a flight of steps leads into a court in which are the sleeping-quarters, the kitchen, and a long house for relatives and
[775] for storage. There is also a small empty shrine where the spirits may rest when they visit their descendants.

184 The people of Tenganan are tall, slender, and aristocratic in a
[142] rather ghostly, decadent way, with light skins and refined man-
[302] ners. The majority of the men still wear their hair long. They are proud and look down even on the Hindu-Balinese nobility, who respect them and leave them alone. They live in a strange
423 communistic or, rather, patriarchal-communalistic system in which individual ownership of property is not recognized and in which even the plans and measurements of the houses are set and alike for everybody. The village of Tenganan owns communally enormous tracts of fertile and well-cultivated lands that fill every need of the village and make it one of the richest in the

2: Covarrubias R-5 (1930-1933) 1938
OF7 Bali OF7

island. I-Tanggú told me this legend of how the land came to belong to the village:

"Hundreds of years ago, long before the Hindu-Javanese settled in Bali, the powerful king Bedaulú lost his favourite horse. Broken-hearted, the king sent the men of whole villages in all directions with orders to find the stray horse. The Tenganans went eastward [2] until, after days of travel, they found the corpse of the horse. The king asked them to name their reward, but their spokesman said they wanted only the land where the horse was found; that is, the area covered by the smell of the carcass. Although the horse had been dead for many days under the tropical sun, Bedaulú considered this a modest request and sent an official with a delicate sense of smell to measure off the land, starting from the place where the horse lay. Accompanied by the chief of Tenganan, he walked for days, but no matter how far the two went, the smell seemed to follow them. Finally the official was exhausted and could go no farther; he said he considered the land already covered enough, and the Tenganans were satisfied. When the official left, the chief pulled from under his clothes a large piece of the rotten flesh of the horse."

I-Tanggú told me the story as we went up to the top of a hill to look at one of the remains of the famous horse; the penis, "which had turned to stone." On the summit, under a large tree, was the relic, a long river stone shaped like a phallus by the action of water. Passing people had left offerings on top of it. I-Tanggú also said that the people of Tenganan are not permitted to work their vast lands with their own hands, but hire other Balinese to do the agricultural work for them. The aristocratic com-

[2] The people of Tenganan claim to have come originally from the district of Bedulu, named after King Bedaulú, near the once holy city of Pedjeng. The Bratan people, a branch of the same family, are supposed to have gone northward in search of the horse. But having failed, they did not dare to return and still live near Singaradja in Desa Bratan, where they constitute a special caste of silver-workers, and where Patimah has her silver shops. The Tenganans still recognize their alliance with the people from Bedulu and make special visits to them at the feasts of the temple of Samantiga. The people of Bedulu also go to Tenganan on special occasions to make offerings.

2: Covarrubias R-5 (1930-1933) 1938
OF7 Bali OF7

tor, so the *balé agung* is the home of the spirits when they visit their descendants, the symbolical throne of their authority. Like everything in Bali, the *balé agung* is divided into "right" and "left," with the chiefs and council members classified in the same manner. They sit on the long shed either at the right or at the left, on a spot set by their rank. New members act as attendants without a seat, but at the meetings squat on the ground outside the shed, until a seat at the end of the club-house is left to them by the death of a member. They advance progressively with age, the entire line moving up each time there is a vacant seat, until they reach the higher places towards the head of the *balé agung*. The headmen keep a record of each member's position in the building, in which the names of the members are written on the palm-leaf.

Every normal married man who owns a house or a plot of land in the village territory is compelled to join the village association, and his refusal would be punished by the denial of every assistance, confiscation of his property, and possibly even exile from the village. Theoretically all the land in Bali belongs ultimately to the gods, who lease it to the Balinese to work it and live from it; consequently landownership in an absolute sense cannot exist in the Balinese mind. Thus the *desa* authority, as representative of these gods, controls the land of the village, the homes, private and communally cultivated ricefields, grazing-lands, and the grounds left wild (*petjatu*) that provide bamboo, rotan, pandanus, wood, and so forth. From the lands adjoining the *desa* a worthy member may obtain an agricultural plot or the ground for his home. If someone has to move to another village and is justified in leaving, he asks to be released from the association and has the right to take with him the value of his share of the village property, but his land and his house return to the *desa*. His property is confiscated without compensation, Korn says, if he leaves the society without explanation.

The headmen of the association, the *kliang desa*, rules the village in the name of the council. He is usually elected by common

2: Covarrubias R-5 (1930-1933) 1938
OF7 Bali OF7

marriages, home festivals, and especially during the expensive cremations. The various *bandjars* of a village take part in the *desa* activities, assisting in the repair and improvement of the temples and contributing to the village festivals. The *bandjars* have recaptured a great deal of the administrative power that the *desa* lost to the princes, although they are subject to the present-day Government (that of the Dutch through the princes), but they remain socially independent within their territory, with their boundaries generally established by the main road on one side, the lesser streets on another, and the rivers and ravines on the outskirts of the village. They have often ricefields worked communally to provide for their banquets and to enlarge their income, which is mainly derived from fines and entrance fees, kept in a communal bank that lends money to needy members. Everyone enjoys absolute equality and all are compelled to help one another with labour and materials, often assisting a member to build his house, to prepare his son's wedding, or to cremate a relative.

Membership is compulsory; after marriage a man receives a summons to join the *bandjar*. He is given ample time, but if after the third summons he has not joined, it is considered that he deliberately refuses to comply and he is declared morally "dead," is denied even the right to be buried in the cemetery, and is boycotted from all communal activity.

Like the *desa*, the *bandjar* is ruled by a *kliang bandjar*, elected by the members, with the choice approved by the gods through consultations with mediums. The *kliang* of the *bandjar* is not remunerated for his difficult work, except for the honour attached to his position and certain insignificant concessions like extra rice at banquets, a small percentage of the fines collected, and presents from members who receive special services, like part of the reward offered for lost cattle, for surveys, for assistance in marriages, and so forth. He cannot decline to serve and can be deposed if found unsatisfactory.

The *bandjar* has considerable property: It owns its meeting-

2: Covarrubias R-5 (1930-1933) 1938
OF7 Bali OF7

halls, the *balé bandjar*, a club-house without special religious significance, with its drum-tower to call to meetings. The *balé bandjar* is provided with a kitchen and with all sorts of cooking-implements: pots and pans, chopping-blocks, knives, etc., which are lent to members who require them. The *bandjars* also own the village orchestras and the dancing-properties — costumes, masks, and head-dresses — which are stored in a *gedong*, a brick building where they are safe from theft or fire.

The men spend most of their spare time in the *balé bandjar*, gossiping, trying out their fighting cocks, watching a rehearsal of a play or of the orchestra, or just sitting. If the *bandjar* is prosperous, it takes great pride in giving elaborate banquets with music and entertainment. These may happen at the great national festivals, at the anniversary of their little *bandjar* temple, or at the inauguration of a new roof, a new orchestra or dancing-group. But also the private festivals of the members become *bandjar* affairs, and *bandjars* like Belaluan, where we lived, celebrated feasts with staggering frequency. Only the men may prepare banquet food, and often we were awakened in the middle of the night by the *kulkuls* calling them to kill the turtles and the pigs for a feast. Banquet food takes long to prepare and the animals have to be slaughtered in the middle of the night to ensure the freshness of the meat and of the sauces in the difficult climate of Bali. After two in the morning before a feast everybody was busy; the men chopping meat, cooking, scraping coconuts, building sheds and altars; the women carrying water, making offerings, cutting out ornaments of palm-leaf or wrapping individual packages of *sirih* and betel for the guests.

By noon the banquet took place, the men sitting in the *balé bandjar* in two long rows facing each other with their individual mountains of rice, pig, and turtle meats served in large squares of banana leaf, drinking *tuak* and making loud jokes. When the meal was over, *kendis* of water were passed so that the guests could wash their hands and mouths. The rest of the day and

2: Covarrubias R-5 (1930-1933) 1938
OF7 Bali OF7

bers and of all transactions and proceedings. The offices of the *subak* leaders are unrewarded, except, as in the case of other societies, for certain privileges such as extra shares of water and a small percentage of the fines collected. Every man who owns ricefields is compelled to join the *subak* and to carry out orders. Members may be allowed to buy off their services, but they must be present when important repairs are made, even though they may pay others to do their share of the work.

Once a month, or oftener if necessary, a general meeting is held in the little temple of the *subak*, a small shrine dedicated to the agricultural deities, built out in the middle of the ricefields. Attendance is compulsory and an absentee who is not properly justified is fined. When the members have gathered, the headman reads the roll, communicates the improvements and repairs to be carried out, reports on the relations of the society with higher officials[1] and with other *subaks*, and accounts for money received in fines and fees as well as what has been spent in materials, offerings, and so forth. Important decisions are reached by majority vote. When all business is settled, the headman adjourns the meeting and an informal social gathering follows in which tobacco, *sirih*, and refreshments are served by appointed attendants. If the *subak* is a prosperous one, there may even be a banquet.

Like other Balinese associations, the spirit of the *subak* is essentially communal; all members abide by the same rules, each one being allotted work in relation to the amount of water he receives. Certain stipulations are made to prevent individuals from holding more land than would be convenient to the community. A man who has more land than he can work is compelled to share the produce with people appointed to help him.

RICE CULTURE

Before any work is done in the ricefields, an expedition composed of the *kliang*, a priest (*pemangku*), and four or five *subak* mem-

[1] The various *subaks* of a district are under the control of an official, the *sedahan*, a sort of minister of agriculture, now under a Government salary.

2: Covarrubias R-5 (1930-1933) 1938
OF7 Bali OF7

tuak, they also have duties to perform: they are the leading members of the village association, the priests, witch-doctors, story-tellers, and of course the teachers of writing, poetry, and the arts. Old men are often duck-shepherds, guiding the flocks of ducks to the fields and back.

At one time the dramatic arts were restricted to the men, although older women danced in religious ceremonies. But today girls have successfully invaded the theatrical field. In general the condition of Balinese women is better than in other Eastern countries. A woman has definite rights; the income she derives from the sale of her pigs, her weaving, or the garden produce she sells in the market is her own, and she may dispose of her belongings without the knowledge of her husband. Most women are not only economically independent, but contribute to the expenses of the household. A woman's debts are her own and her husband is not liable for them. The women keep the finances of the family and control the markets.

THE ECONOMIC ORDER

With agriculture as the main occupation of the people and the basis of wealth, the question of the ownership of land is of great importance. Bali presents the amazing spectacle of a land where the deeply rooted agrarian communalism of the people has continued to exist side by side with the feudalism of the noble landlords. We have seen that the true Balinese village is an independent economic and social unit, ruled by a council of villagers with voting power, equal rights for all, and ownership of land restricted by village regulations. The lands are communally cultivated to maintain the village festivals, and even the ground on which the houses stand is village property that can be reclaimed if the tenant abuses his privileges. Since the land and its products belong to the ancestral gods, the idea of absolute property is not firmly rooted among the Balinese. In our household nobody objected when neighbours came and cut flowers and banana leaves without permission.

2: Covarrubias R-5 (1930-1933) 1938
OF7 Bali OF7

Alongside the Balinese commune is the contrasting influence of mediæval princes who have tried, without success, to abolish the village organization and the religion that motivated it, to replace it by feudal rule with an official cult under their control. Passive disobedience at first, and Dutch supremacy later, left the princes in the position of impoverished nominal aristocrats, who, despite the fact that they represent the Government, are excluded from the administrative management of the villages. Through their co-operative societies, the *bandjars* and *subaks*, the Balinese have recaptured some of their village autonomy. However, the communal system has suffered considerably in the feudal territories where the princes have held sway; the communal lands sometimes became part of the estate of the local prince, who gave grants of lands to his vassals in exchange for servitude, and gradually ownership of the land in these districts became more and more individualistic, developing a class of organized small landowners. Village ground cannot legally be disposed of, but *sawas* have been pawned when there was great need of ready cash. Land has never become a commodity, however, and today the agriculturist is protected to a certain extent by the law forbidding the sale of agricultural lands to foreigners, perhaps one of the wisest laws passed by the Dutch Government.

Economic inequality is not as striking in Bali as elsewhere. Until recently almost everybody wore the same type of clothes, all went barefoot and lived in thatched houses. At first sight they all seemed happy and prosperous. The majority of the population has a roof, enough to eat, and some big silver dollars buried under the earthen floor of the sleeping-quarters. Yet there are some who are extremely poor while others are considered rich. There are people without lands or a house of their own, living a parasitic life of slavery, a remnant of feudalism, attached to the household of a master and eating whatever is given them. A rich family is one who has *sawas*, a house with a gate of carved stone, a large rice granary, an ornate family temple, and a well-built pavilion for guests. They may have some fine cloths put away

2: Covarrubias R-5 (1930-1933) 1938
OF7 Bali OF7

were ruled by councils of village members and officials who governed as representatives of the ancestral spirits. Since the land, source of all wealth, also belonged to the ancestors, individual ownership of land was not recognized, and it is remarkable, but typical, that the village officials still govern as a duty to the community and without remuneration.

Furthermore, the Balinese have been extremely liberal in matters of religion. Every time a new idea was introduced into the island, instead of repudiating it, they took it for what it was worth and, if they found it interesting enough, assimilated it into their religion, since no one knew what power there might be in the new gods. In this manner, from all the sects and cults that at one time or another reached the island, they selected anew the principles that best suited their own ideas and accumulated a vast store of religious power. Buddha became to them the younger brother of Siva, and if the efforts of the Christian missionaries who are attempting to convert the Balinese succeed, it is not unlikely that in the future "Sanghyang Widi," the exalted name that the missionaries have adopted for Jesus, will become a first cousin of Siva and Buddha and will enjoy offerings and a shrine where he can rest when he chooses to visit Bali.

TEMPLES AND TEMPLE FEASTS

The temple is certainly the most important institution on the island and the clearest illustration of the spirit of the Balinese religion. There are temples everywhere, from the modest family shrines in every household, to the extravagant temples of the princes and great town temples; large or small, plain or richly carved temples found in the ricefields, in the cemeteries, in the markets, on the beaches, in caves, among the tangle of gnarled roots of old *waringins*, on deserted hill tops and even on the barren rocks along the coastline.

When we discovered that the Balinese did not seem to mind

2: Covarrubias R-5 (1930-1933) 1938
OF7 Bali OF7

musicians, and even squirrel-chasers, to the great agricultural, fishing, village, and ward associations that control the internal government of the communities. Every one of their activities is managed, not individually, but communally, with every active member having a vote and a voice in every enterprise. Naturally, individualism did not develop in the strict communalistic society; individual names are hardly ever used and they call one another "brother," "father," "teacher," or "grandfather." All art is anonymous and only recently have painters begun to sign their works, owing entirely to the influence of Europeans. This, however, did not kill individuality of expression; it is easy to detect the authorship of a certain painting or a sculpture if one is familiar with the author's work, every notable actor or dancer has his own unmistakable way of performing standard dances or improvising lines for a play, and no two orchestras play alike.

In the larger towns and in the districts where the princes held sway, landownership became more individualistic, but elsewhere the right of landed property is not recognized as absolute and an undesirable member of the community cannot hold property given to him or to his ancestors against the will of the village council. A landowner cannot sell his property within the jurisdiction of the village without authorization from the council and it can be confiscated if he misuses it or if he abuses his privileges.

Instead of the familiar exploitation, enslavement, and economic inequality imposed on the population by a ruling class of aristocrats or bureaucrats so often found in countries where the government is centralized in individuals, in Bali we find an economically independent majority that is truly democratic because every representative villager, regardless of his caste or his wealth, is an active member of the village council with an equal voice in village affairs and with equal duties to perform. The government of the villages remained impersonal and with a minimum evidence of even its existence, because power was equally divided among the members of the various councils, and the executive officials, such as *kliangs*, council heads, treasurers, and so forth,

3: Belo E-5 (1931-1939) 1953 OF7 Bali OF7

CHAPTER TWO

Days of Preparation Before the Odalan

First day

The work of preparation began on the Sunday morning preceding the festival, so that a full week of the people's time was chiefly devoted to it. In charge of the ordering of the work was an official of the ward, the *petadjoeh*, chosen by the community. Serving as his assistants were four young men, *sinoman*, who act as messengers and special lieutenants of the work in hand. *Sinoman* hold office for a month only. They are appointed from each of the households of the ward in turn, and are changed at each monthly meeting of the ward's male householders. Each household is in theory composed of a male and a female adult, who are *pengajah* — that is, who owe their share of work to the community. A man whose younger brother lives in his house-court may send him to take his place at the work, or a woman be substituted for by her grown-up daughter. All that the community asks is the cooperation of one male and one female adult, and the two of them are rarely called upon to attend at the same time. It is said that one or the other should be at home, otherwise "the house would be empty."

The temple owns lands (*labaan*), rice-fields and grass-fields. The cultivation of these lands falls to the *pemangkoe*, priest of the temple. But all the members of the temple share in the crop. The priest takes half and the remainder is divided equally among the members. From his share the priest is required to provide the offerings given in the temple every *kadjeng klion* (a calendrical point occurring once in 15 days), at *poernama* (full moon) and at *tilem* (dark moon), and for the small festival (*sepèn*). From their share the members provide for the big festival (*odalan*), and the priest at this time contributes only the same amount as an ordinary member. The land-holdings of this particular temple are not sufficient to provide all that is required for the big festival; therefore, the members are taxed equally to make up the deficiency.

The *petadjoeh*, in charge of the accounts, takes stock of the temple riches, and makes out a scheme of contribution fairly divided. The *sinoman* are sent out to visit each household, to inform the people that they must come to the temple to work on the third day before the *odalan*. They are told to bring with them their contributions, thus, for each household:

The most usual pattern of land ownership is, as a result of the strong village organization, or better, village feeling, that of the central compact village divided into individual family house courts with gardens, and beyond the village outlying fields which are also worked by the individual families. The fields are passed down by heredity in the male line but may not be alienated; they may not be bought by a foreigner or even by the member of an adjoining village. When a house court falls empty it is filled by members of the family, and there are almost always sons waiting to get a village site when the old people die off. Only if there is a family line which comes to an end, an exceedingly rare occurrence, do the village site and the portion of the fields worked by the family come up for sale to outsiders. Land so held is called *petjatoe*. Two other types of holding are commonly spoken of, the *tetamian*, "inheritance land," and *labaan*, "temple land." *Tetamian* is the type customarily owned by members of the higher castes; it is generally passed on in the male line, too, but, in contrast to village lands, can be sold or mortgaged. The third sort, *labaan*, is land held in common by members of a temple group for the support of the temple and its priest. Very often these lands do not suffice for the prescribed offerings and the support of the priest (*pemangkoe*), and the deficit has to be made up by the temple members by carefully allotted contributions.

It is commonly said, and the feeling is certainly there, that all the land in Bali belongs to the gods and that a man only is privileged to work the lands during his lifetime, "asking for rice," as the saying is. A new born child is said to have come to "ask for rice," and he is put through the motions of obeisance to the gods, from whose world he is thought of as but recently arrived, in order to obtain their benevolence and goodwill, for himself and his family, in enjoying the fruits of the earth which they graciously allow him.

Religion. Since ancestors are merged with gods, there is no contradiction to the Balinese in the hereditary system of land ownership and the phrasing of it as "belonging to the gods."

Indeed the theme of what is known as ancestor worship is the strongest part of the Balinese religion. It is the basis upon which their version of Hinduism rests. Temples are sacred sites, walled enclosures containing many shrines, and the chief of these is to the Original Ancestor and his Consort (*Sanggah Kemoelan*, Shrine of the Beginning, which, the priest will tell you, is equivalent to Siva). In every house court is a family ancestral shrine, a tiny temple walled off from the rest of the house in its own enclosure, the holiest ground. Villages have as a rule three main temples, the Village Temple, the Temple of Death (sacred to the memory of the Dead Kings), and the Temple of Origin. The Temple of Death (*Poera Dalem*) is

7: Belo E-5 (1931-1935) 1936 OF7 Bali OF7

at the crossroads, the graveyard; and only occasionally a pilgrimage to one of the temples of mountain-gods, sea-, lake-, and sacred spring-gods; proper and suitable celebration, with offerings and performances according to his means, of births, birthdays, tooth-filings, weddings, deaths, cremations, etc., in the family. As a rule it is only when some difficulty arises in the carrying out of the ordinary prescribed rites that the djabă turns to the Hindu high-priest, the Pedanda, for advice, and still more rarely, for his offices.

It has occurred to me that a study of one such ordinary Balinese—one of the 900,000 djabă—in his family relations, might be of value, not to lay down any rules, but simply as an illustration of certain common phenomena in the mores.

I have chosen, therefore, an ordinary family, in an ordinary village, lying halfway between the modern town, where the old customs are perforce breaking down, and the region of the old-style Bali-Agă villages, which in their isolation have preserved an order which is today more of a curiosity in Bali, not characteristic of the country as a whole. And so, although it must not be concluded that what has happened in this family is what necessarily would happen in any Balinese family, still the procedures may be taken as fairly typical—if one remembers that variations are great from village to village, and that the customs of the high-caste Balinese, as well as those of the Bali-Agă villages are not represented in the general picture.

A BALINESE FAMILY

Rendah is the head of his household, and therefore a pengajă, member of the village council. He owns his own pekarangan, a walled courtyard within the village limits, enclosing the shrines of his household gods, the living quarters of his immediate family, and the place of the pigs and fowls. He owns also a sufficient portion of the irrigated rice-fields surrounding the village for the maintenance of his family. The fields are tilled by himself, his brothers, and their sons when they are old enough. All the old people and the dependent women and children get enough to eat. If the crop is good, and there is rice left over, it may be sold in the market. The women cook and weave cloth (kamben) for the family, and carry up fresh water from the spring, night and morning. The small girls of five or six begin to help their mothers and aunts at this task, balancing a coconut-shell full of water on their erect heads. The little boys of the same age take charge of the ducks and the water-buffalo, driving them out into the inundated rice-fields at sunrise, driving them back to their shelters near the house-court, at dusk.

7: Belo E-5 (1931-1935) 1936 OF7 Bali OF7

received swings back and forth through the generations. But all the same, when quarrels arise, the present government has difficulty in settling the ownership of property to which one man may hold the deed,[6] whereas another has been farming it and paying the taxes on it for ten or fifteen years.

In the case of Rendah and his two surviving brothers, the ricefields of their father are supposed to have been divided between them. Rendah, as the eldest, claims to have got a larger share than Mertă and Dog. Now Mertă maintains a separate household, whereas Dog lives in the house of Rendah, and has no child (except the daughter of Rendah whom he has adopted). Rendah says that two-thirds of the land belongs to him, but that as the land is all lumped together, and worked chiefly by Mertă and Dog, they divide the crops between the two households, that of Mertă and that of Rendah, which includes Dog. Rendah's household consists of six adults and five children, Mertă's of two adults and seven children. "If he has not got enough rice, I give it to him, whereas if I am lacking, he gives to me," says Rendah. Hence we assume that the division of the crop is done on a friendly basis according to necessity, and if Rendah's household should diminish through the death of the old mother and sister, or the marriage of his daughters, and Mertă's increase with the birth of more children, the ratio could be proportionately altered. But it is hard to tell, when Rendah says he owns two-thirds of the land, whether this is really all his, or whether he is counting with his own Dog's share, since Dog is in the position of a dependent in his household. In this case it is of no particular importance, as Dog has no son to inherit from him.

It will be noted that of the eleven marriages recorded in Rendah's generation, only two were polygynous. Njadet married Dartă, and having no children by her, took his paternal parallel second cousin Njambléh, who gave him one daughter. When she grew up, a sentană marriage was arranged with her cousin Keroenă, who is related to her both on her mother's and on her father's side (fig. 1, II). In the son of this marriage, Njadet has at last got his heir to carry on the line. The other marriage of two wives was when Soewakă, who, as sentană husband to Metoe, had only a daughter, wedded his second cousin Méweh as a second wife, and by her got four sons.

In the preceding generation Klepoeg and Krèbèk had each two wives.

[6] The deed, called pipil, is in writing, engraved upon a leaf of the tal palm. It is tucked away in a safe place, and forgotten. In the case of land which I rented, the search for the pipil lasted six weeks. It was finally discovered in a roof-bamboo of the house of the paternal second-cousin of the "owner."

9:Geertz E-5 (1957-1958)1959 OF7 Bali OF7

361 other in an almost urban fashion so as to conserve rice-land in the face of tremendously dense and growing population.[5] Within such clusters the basic territorial political unit is the hamlet, or *bandjar*. Bandjar, which may or may not be spatially isolated, depending upon the size of the settlement, contain anywhere from a dozen to several hundred nuclear families, averaging perhaps
621 about eighty or ninety. In most parts of Bali, the bandjar may be rather simply
344 defined as all those people subject to the decisions taken in one hamlet meeting
[623] house, or *balé bandjar*. Bandjar meetings of all male household heads are usually held in this balé once in a 35-day Balinese month, at which time all important policy decisions for the hamlet as a corporate unit are made, mainly by means of a "sense of the meeting" universal agreement process. As the temple is the focus of the religious community, so the meeting house—a wall-less, peaked-roof, Polynesian-looking structure usually located in the center of the hamlet—is the focus of the political community.[6]

621 To the bandjar are allocated the sort of general governmental and legal functions common to peasant communities in most parts of the world. It is responsible for local security, for the legitimation of marriage and divorce and the settlement of inheritance disputes, and for the maintenance of public works such as rural roads, the meeting house, and the local market sheds and cockpit. Commonly it will own a gamelan orchestra and perhaps dancing costumes and
[423] masks as well. As in many, but not all parts of Bali, house-land is corporately
[681] owned by the bandjar as a whole, the hamlet also may regulate the distribution of dwelling places, and so control immigration. For serious crimes it may even expel members, confiscating their house-land and denying them all local political rights—for the Balinese the severest of social sanctions.

621 The hamlet also has significant tax powers. It may fine people for infrac-
651 tions of local custom, can demand contributions for public entertainments, repairs to civic structures, or social welfare activities more or less at will, and can exercise the right to harvest all rice land owned by bandjar members—the members as a whole acting as the harvesters—for a customary share of the product. Consequently, most bandjar have sizeable treasuries and may even own rice land, purchased out of income, the proceeds of which are also directed to public purposes. Nowadays, a few bandjar even own trucks or buses, others help finance local schools, yet others erect cooperative coffee shops.

621 Finally, the bandjar also acts as a communal work group for certain ritual
476 purposes, especially for cremations, which, along with temple festivals, are still
[764] the most important ceremonies in Bali, although their size and frequency have
[796] been reduced somewhat in the years since the war. When an individual family
[178] decides to cremate, all members of the bandjar are obligated to make customary contributions in kind and to work preparing the offerings, food, and paraphernalia demanded for as long as a month in advance. Similar cooperation, but of lesser degree, is often enjoined for other rites of passage, such as tooth filing, marriage, and death. The bandjar is thus at once a legal, fiscal, and ceremonial unit, providing perhaps the most intensely valued framework for peasant solidarity.

623 The heads of the hamlet are called *klian*, literally "elder." In some bandjar

9:Geertz E-5 (1957-1958) 1959 OF7 Bali OF7

there is but one, most often two or three. Sometimes there are as many as four or five, usually reflecting either a large bandjar or one sharply segmented into strong kin or other subgroups, in which all important cross-cutting minorities must be given a role in bandjar leadership. Nowadays klian are usually elected for five years and then replaced by a new set, often chosen by the outgoing group with the approval of the bandjar meeting, so as to avoid electioneering. Klian are assisted by various lesser officials, whose jobs are usually rotated monthly among the members of the bandjar. Though the klian lead the discussion at the bandjar meeting, hold the public treasury, direct communal work, and commonly are men of some weight in the local community they are not possessed of much formal authority. In line with the general Balinese tendency to disperse power very thinly, to dislike and distrust people who project themselves above the group as a whole, and to be very jealous of the rights of the public as a corporate group, the klian are in a very literal sense more servants of the bandjar than its masters, and most of them are extraordinarily cautious about taking any action not previously approved in the hamlet meeting. Klian, who are unpaid and have no special perquisites, feel that their position mainly earns them the right to work harder for the public and be more abused by it; wearily, they compare their job to that of a man caring for male ducks: like the drake, the bandjar produces lots of squawks but no eggs.

3. Ownership of rice land lying within a single watershed. Unlike peasant societies in most parts of the world, there is in Bali almost no connection between the ownership and management of cultivable land on the one hand and local political (i.e., hamlet) organization on the other. The irrigation society, or *subak*, regulates all matters having to do with the cultivation of wet rice and it is a wholly separate organization from the bandjar. "We have two sorts of custom," say the Balinese, "dry customs for the hamlet, wet ones for the irrigation society."

Subak are organized according to the water system: all individuals owning land which is irrigated from a single water source—a single dam and canal running from dam to fields—belong to a single subak. Subak whose direct water sources are branches of a common larger dam and canal form larger and less tightly knit units, and finally the entire watershed of one river system forms an overall, but even looser, integrative unit. As Balinese land ownership is quite fragmented, a man's holding typically consisting of two or three quarter- or half-acre plots scattered about the countryside, often at some distance from his home, the members of one subak almost never hail from a single hamlet, but from ten or fifteen different ones; while from the point of view of the hamlet, members of a single bandjar will commonly own land in a large number of subak. Thus as the spatial distribution of temples sets the boundaries on Balinese religious organization, and the nucleated settlement pattern forms the physical framework for political organization, so the concrete outline of the Balinese irrigation system of simple stone and clay dams, mud-lined canals and tunnels, and bamboo water dividers provides the context within which Balinese agricultural activities are organized.

Though organizational details and terminology differ widely from region to

[104 cont.]

634 For his exertions on behalf of the soebak, the klian some-
312 times receives a double portion of irrigation water, and, as tax
[451 collector, he receives a part of the income from taxes.
465]

At the head of a number of soebak in one or more dèsa is the sedahan temboekoe, who stands above the various klian and supervises the distribution of the water. At the same time, he looks after the taxes for the prince. Above all of them is the head of the whole water supply, the sedahan agoeng, who holds regular monthly meetings with the several sedahan temboekoe. In 1882, when (in Buleleng) direct governmental administration was introduced, the sedahan temboekoe received a monthly salary of 130 guilders and the title of subcollector.

611 Family Law. On Bali and the Balinese portion of Lombok
[814] (western Lombok) one can speak of a patriarchal family system,
but there is no longer any trace of clan divisions. There is
564 another dividing line, however, that of the caste system. The
greatest cleavage is that between the members of the three high-
est castes, the triwangsa, descendants of overlords, on the one
hand, and the soedra, the subjects, on the other. It is a rule
[582] that a man may not marry a woman of higher caste; he may,
however, marry a woman of lower caste. One may thus in part
speak here of true endogamy, the prohibition against marrying
outside of one's group, in this case outside of one's class or caste.
Otherwise the marriage and inheritance laws have more in com-
583 mon with those of patriarchal exogamy: the custom of bride
611 price, descent reckoned in the male line (for determining caste
● 423 membership, only that of the man is considered), inheritance
rights only for the male relatives in the male line, while the
[587] woman is, in theory, part of the inheritance, although this has
not led to levirate marriage.

Formerly, in the case of a death without heirs, the inheri-
tance, after debts and the cost of cremation had been deducted,
went to the dèsa association, later to the prince. This led [105]
833 to very sad consequences; the wives and daughters moved to the
428 royal residence and were simply sent out as prostitutes to increase

Bali OF7
Atjehnese OD4
Java OE1

I 423 425 671 [358 cont.] In this form of possession nothing actually remains of the higher right of the community; Van Vollenhoven explains this as follows: owing to the higher development of agriculture and more intensive work on the land, [359] there is a tendency to free land tenure from the bonds of the disposal right, especially from interference with cultivated land. Actually, on Bali in connection with the sawahs (the land on which the most work must be done) and on Atjeh for all cultivated land, the right of possession has been freed from the bonds of the disposal right.

B A [423 425 671] J [423] The same development was in process at the beginning of the century in the Kedoe Residency (Bagelèn district) on central Java. As time goes on, communal possession with permanent holdings is being treated like hereditary individual possession.

I [636] On the other hand, emphasis on the dadal right of the dèsa under the influence of the European administration, especially at the time of the Cultuurstelsel [Cultivation System], whose aims it furthered, led to the development of communal possession with periodic redistribution. Not only for special reasons such as expropriation, natural catastrophes, etc., but every year or after a certain number of years, the land of the dèsa was redistributed. Thus the situation arose which is described as follows in the Eindrésumé (Vol. I, p. 66): "In most of the dèsa of Djapara, Rembang, Madioen, Kediri, Surabaja, and Pasoeroean, there is as a rule a new distribution annually, with the cultivators changing places; in some dèsa this happens every two or three years.

"When a whole new distribution, with the cultivators changing places, is undertaken, either because there has been an increase or decrease in the number of members or because it is done annually, it is a rule (with some exceptions, for instance, assignment by the dèsa chief or one of the members of the village administration, or distribution by mutual agreement) that all the holders of land, beginning with the village chief and the members of the village administration and through all the others, choose their plot according to a roster with a definite plan of rotation each year."

I [311]

12: Haar S-4 (1939) 1948 OB1 Indonesia 081
Bali OF7
Java OE1
85 I
423
428
609
I
423
428
626
J
Bl
423
425
257
[651]
J
I
423
609
[626]

bers may prevent sale to an outsider by making an equal offer, which must be accepted.

The community pervasively exercises its right of disposal over permanent fields and orchards, for the most part, by an occasional recovery of such fields after the death of the proprietor. Such rights usually are reissued to a selected heir of the deceased (see p. 209) or, perhaps, to a villager, who must then be raised to the status of membership in the central or nuclear village. The community may also force a father to make way for his son when the latter marries. It may prevent a nuclear villager from getting more than one permanent field of normal size, in order to maintain an equitable opportunity among the villagers. It may also take back the land as a punishment for criminal misbehavior. It can do the same when the proprietor leaves the community, and then reissue it to someone else.

The central or communal authority may for various reasons become subject to intense pressure for the recapture and reissuance of fields. In Tnganan (Bali), for example, this has become a regular practice; and princely levies combined with government taxes have produced a like effect in the desa in Cheribon and Central Java. A regular and periodic distribution of cultivated fields has come to be widely accepted. The sugar industry here has an important interest in pushing this practice for the benefit of its plantations which lie close to communal fields. This system of regular redistribution gives all the villagers a chance to an equal share in the returns from the land. It may also persist of its own worth when regular redistribution works well because of unequal fertility of the different areas of the village land. Yet it almost always shows a natural tendency to disappear when the external pressures are removed. It has been noted in several places in Java, since the decline of the sugar industry there from 1933 on, that periodic distributions are passed by and the legal hold of individuals on the land has become stronger.

If village concern over the land declines, possession of more than one field by a person and the alienation of fields to outsiders ultimately becomes extensive. Then the community's right of disposal is throttled.[2] The last surviving traces are found in the power to withdraw a field from a miscreant, the reversion of fields on death without heirs, or on the departure of a title-holder to other places, and the cooperation of the chiefs in land transactions.

[2] The best known example of this can be seen in Kedu (Java).

12: Haar S-4 (1939) 1948 OBl Indonesia OBl
Minangkabau OD10
Bali OF7 87

access to communal lands by outsiders. Out-groupers may exploit such lands only after they have paid in advance a fee for the use of the lands, and continued to pay rent afterwards. In principle, they obtain usufruct for just one season. They may never buy, sell or inherit such fields. Nor may they receive such fields as security. And finally, under native law they may be forbidden even to enter upon the communal lands, or perhaps be subject to other disabilities, although this last power is today of doubtful constitutionality.

Outsiders must apply to the village chiefs for permission to use village land. To pave the way for a favorable response to such request, a little gift to the chiefs is good Indonesian custom. In certain law-areas it is customary to give a tangible token to the community at the beginning of the enterprise, so as to display the outsider's consciousness of the advantage he is about to realize on someone else's land. In Angkola, for example, when a group of people, who do not belong to the ruling village wish to get permission to set up a new hamlet in the area of disposal belonging to a regional community, their headman must bring in six water buffaloes. These are then turned to the profit of the whole regional community. And on Bali the population of the immigrant village of Kastala is nothing other than share-croppers on the fields of the people of Tnganan, the owners of the land. Generally, however, the practice is merely to give occasional token payments in addition to the initial compensation. This, too, is largely to symbolize the admission of advantage derived from someone else's property, because the payment may be very small, indeed. In Minangkabau the legal maxim "lembaga dituang, adat diisi" is sometimes explained as meaning that strangers owe acknowledgment and retribution to the community. Whatever earnings are brought in from this source go to both the chiefs and the people.

As against the rights of outsiders the community believes that its ultimate title is never impaired. Aliens cannot permanently settle on the land. Their relation to it must remain loose: the "orang menumpang" as contrasted to the "orang asal" among the Rejang. Only when outsiders have lived in the community for generations do they acquire a more clearly fixed title to their fields. And even then their rights readily give way to the rights of the community in any crisis. In addition, the descendants of the original village in a regional community, or the descendants of the founding lineages in a village, sometimes constitute a central group,

12: Haar S-4 (1939) 1948 OB1 Indonesia OB!
Ambon OH4 Java OE1
Bali OF7 BP
89 J I

Then, too, the right of disposal over cultivated land does not always operate in the same manner. In some law-areas (e.g., South Tapanuli, Ambon, Bali and Java) it is possible to note three levels of operation in some villages. First, the community right is strongest with regard to lands without an owner, which have reverted to the village and then been reissued by the village to a new proprietor. That person's legal status for the time being permits no dealings in the land and is weak in resistance to village interference in his title; as, for instance, when it is desired to recapture the land for non-performance of communal services. Second, the right of disposal is also strong with respect to those lands which are original holdings of the villagers. So long as a male descendant holds the land of his family ancestors, he has a firm hold as a member of an original lineage within the village group. However, the village interest is on the alert against any change in the legal possession of those original lands. It admits of no alienation, no division among heirs, no combination with other fields. If a native villager dies without heirs the village appoints a new person to use those particular fields or orchards. This new proprietor will acquire a position similar to that of persons who have held such fields from of old. But that takes a good long time. Third, there may be fields or orchards in addition to those issued by the village. These are individually owned, and the community interest is weak; the proprietors may pawn or sell such lands; their reversion to the village is exceptional, and village interference with these lands is rare. In Java such lands are called "sawah jasa" (in contrast with the "sawah pekulen or gogolan"); on Ambon, "dusun pusaka" (in contrast with the "dati").

425 184 626 428 423 AM [423]

It is this variegated action of the village rights that is sometimes, and erroneously, called "mixed possession."

Residential land is occasionally handled differently under the communal right of disposal of a village than is cultivated land. Villages interfere more readily to create living space than they do to make workable fields available.

I 423 624

5. *The dual area of disposal.*—The dual area of disposal is encountered in two different ways. In the first and more exceptional instance, an inland village will possess its actual residential and food-producing area; and, in addition, it may hold a distant maritime area from which it derives its indispensible sea products and salt. The more common dual form, however, is that which occurs when a given area falls within the disposal powers of both a local village and the regional community in which that village lies. As a

12: Haar S-4 (1939) 1948 OB1 Indonesia OB1
Ambon OH4 Minangkabau OD10
● Bali OF7 Gorontalo OG4
Java OE1

starting point you may imagine a piece of territory in the possession of a community. Within this regional community a number of local groups are established and settled in a number of residential areas; each group is on an equal footing with the rest. Members of each village reclaim parts of the common regional domain; fields are used and then abandoned. Subsequently, they become overgrown as the gardeners move on to other clearings. If so long a time has elapsed that even the preferential right of the ones who did the job of reclamation are dead and the lands have remained a parcel within the regional community area of disposal, the regional community continues in competence (power) to adjudicate disputes between members and their local chiefs and to control the admission of outsiders, *etc.*, with respect to these lands. At no time are the members of the regional community dealt with as though *they* were outsiders to any village in the group.

Lands that lie interstitially between the specific areas of disposal of the several villages are under the sole control of the regional community.

Extended family rights to disposal of waste lands held by the "suku" or "kampuang" within a "nagari" in Minangkabau, or rights held by the "dati" within the Ambonese "negory" are subject to similar principles.

6. *Delimitation of the area of disposal.*—Throughout all law-areas the areas of disposal are sharply bounded by the staked claims of other communities. Vague boundaries, on the other hand, may exist where there are wide areas of uninhabited land.

7. *Means of protection of communal areas of disposal.*—As long as there is no superior power above the communities, territorial sovereignty depends upon defensive strength or upon mutual agreement. In order to meet the special problems that arise because of this, many Indonesian communities have developed special officers, whose function it is to protect the boundaries. Such men are the "jaring" in Minangkabau, the "teterusan" in Minahasa, the "kepala kéwang" in Ambon, the "lelipi slem bukit" of the Tnganan in Bali and, apparently, also the "reksabumi" in Java.

Not only is protection of the boundaries possible by means of local frontier guards and patrols, with occasional petty wars, but if a village union or a prince or central government is established over the villages additional protection may be gleaned from letters of recognition by the prince, and decisions of federative (native), royal and colonial judges and governmental administrators. This

12: Haar S-4 (1939) 1948 OB1 Indonesia OB1
Savu OF15 Java OE1
Sumba OF17 Bali OF7

benefit has given direct impetus to the rise of native principalities in Bali and Indragiri.

8. *Legislative ignoring of the right of disposal.*—Failure to recognize the right of disposal in Dutch legislation has resulted in considerable unnecessary contradictions.

9. *Terminology.*—It rarely seems to have occured to Indonesians to coin a term for the right of disposal; at any rate, few languages in Indonesia have a specific word for the concept. But the area of disposal as such is always identified by some definite term. This term may give expression to the area of disposal as a possession (patuanan, in Ambon), as a food-producing area (panyampeto, in Borneo), as a demarked territory (pawatasan in Borneo, wewengkon in Java, and prabumian in Bali), or as land forbidden to outsiders (totabuan in Bolaang Mongondow). Various other terms are also known to exist, as for instance, "torluk" in Angkola, "limpo" in South Celebes, "nuru" in Buru, "payar" in Bali, "paér" in Lombok, and "ulayat" in Minangkabau.

10. *The supervisor of lands.*—The title "groondvoogd," or supervisor of lands, is given a double meaning in the literature. It is used in the first place to indicate the community soothsayer, who is especially versed in the techniques of making the supernaturals act in accord with human desires in the use of land. In the other sense, it is used to apply to the particular official who, in addition to the general chiefs and authorities, is the specialist in wielding the powers of disposal vested in the community. In correct technical usage, according to adat law, the word should have only the second meaning.

The separation of general authority and control of the operation of the right of disposal is apt to take place when an outside power penetrates the community or is foisted upon it. In such a situation it is possible to conceive of the three functions—soothsayer, land supervisor, and general headman—as existing side by side. But almost always the functions of soothsayer and supervisor are merged. The same is true of the functions of supervisor and chief, if no alien authority enters the picture. In his relation to native law the land supervisor is the actual symbol of the unbreakable link between the group and its soil. Even though the general political authority may be entrusted to a superior alien power, or captured by it, that bond of folk and soil persists. And it is just because the land supervisor is, so to speak, the personification of the spiritual relation of the people to their land that he is also usually the cere-

12: Haar S-4 (1939) 1948 OB1 Indonesia DB1
Atjehnese OD4 Batak OD5
Bali OF7 Atjehnese OD4
Minangkabau OD10

I 426 432 place after the last harvest and before the next planting. Any planting belongs to the person who put it in the ground. Even if redemption is managed before the harvest is in, the original owner of the land must permit the planter to have his harvest.

The explicit agreement of the pledge transaction, however, may stipulate the number of seasons the lender may have undisturbed use of the land.

[685] e. *Upkeep of pledged land.*—Pledged land must be returned to its native possessor in as good a state as that in which it was received. Damage resulting from bad faith must be compensated for. But there is no compensation for improvements or any increment in the value of the land. If the pledgee has planted perennial plants without the permission of the owner, unless he removes them again, they pass in native possession to the pledgor when the land is redeemed. In some places, however, as among the Bataks, when the pledgor tacitly permits the planting of trees on pledged land, he forfeits his right ever to redeem the land he has pledged.

f. *Lump repayment.*—Money borrowed on land must be repaid in a lump sum. If instalments are paid, they are no more than an entrusting of the sums to the pledgee in advance of final redemption.

In various law-areas there is a form of transaction which is a modified form of pledging (ngajual tutung in West Java; dondon susut among the Mandailing). In essence it is the prepaid rental of land. But the natives call it pledging, with the agreement that the loan shall be gradually worked off by turning over a part of the produce of the land. Then when the money advanced has been paid off, the field reverts to its owner.

Bl MK At Bt I 184 426 ● 423 432 596

g. *Local variations.*—The pledging of land is of common occurrence in all law-areas of Indonesia. In each area it has its peculiar shadings in harmony with the local color given by the special legal system of the area.

To give some examples: in Atjeh the offer and acceptance formula (ijaab kabul) is borrowed from Islam. Among the Bataks the transaction must take place over hot rice and with designation of the boundaries of the land in question (as is true of all their important agreements). In Minangkabau pledging of family land is permitted only to meet a family need for money for fulfilment of adat requirements (marriage of a daughter, funerals, elevation of a member to chiefship, repair of the adat house, etc.). In some of these situations the family headman has the power to pledge the land; in others a unanimous declaration of a family conclave is

12: Haar S-4 (1939) 1948 OB1 Indonesia OB1
Batak OD5 Java OE1
Minangkabau OD10 Bali OF7 Bl
Atjchnese OD4 MK
At
Bt

called for. Among these people the pledgee has to give the landowner an annual present of rice in continuing acknowledgment of the owner's right of redemption (pitungguh gadai). The Toba-Bataks accomplish the same function by having the owner preside at the annual garden sacrifices. In Bali it may be stipulated that if the field goes sterile, the loan advanced on the land must be paid back. In Java the community right of disposal limits the power of the individual to pledge the land, and this is true in other places. In Bantam the possibility of increasing the loan up to the sale value of the land is known as "ndalami gadé." The practice is recognized everywhere else, but under different names. In some places there is a repeated imitation of the initial land transaction before the village chief, in order to keep public recognition of the pledge relation alive. In Mingangkabau this is called "pitungguh gadai."

2. THE SALE OF LAND

As has already been noted, the payment of the purchase price in the presence of the chief effects an immediate transfer of native possession.

a. *Rights of a bona fide purchaser.*—Sales by persons who do not have a true title to the land occur again and again. The common situation is where the seller is merely a co-owner, or perhaps, an agent without proper authority. The transfer may well be approved and aided by the village chief under the impression that the seller is the rightful proprietor. In that event, if the buyer was acting in good faith, his purchase is good, and the law entitles him to the land in preference to the defrauded owner. The Dutch courts in a recent decision, which seems to be sound and fortunate, extended the principle to apply to the rights of a pledgee for the term fixed in a pledge transaction. The true native possessor of the land fraudulently sold is then in the position of having to buy back the land himself, or else he must give it up. His subsequent recourse is to attempt recovery of the sum in question from the fraudulent seller.[2]

b. *Public sale.*—The public sale of land in execution of a judicial decision is in violation of the principles of native law. There are no provisions for it in the adat. This raises a crucial question as to what is just, if a cultivated field is sold at a public sale for account of a false owner. No precautions have been taken in the Dutch law to see to it that the public sale is recognized in the native village legal

[2] Landraad Tasikmalaja of Nov. 18, 1935, *aff'd* Raad Batavia of July 24, 1936, 148 Tijdschrift 378.

12: Haar S-4 (1939) 1948 OBI Indonesia OBI
Bali OF7 Redjang-Lampong OD12
Minangkabau OD10
Java OE1

described by being split into two parts in the manner just indicated. Sometimes the document may directly declare: "I, the undersigned, declare that I am pledging ————."

The document is signed by the person who is transferring the land. "Signed" may mean an actual signature scrawled under the record in one script or another by the transferer, or it can be a cross, which he puts after his name, written by someone else, or an imprint of his thumb-tip in red ink. The headman of the community in which the land is situated, and any other village officials who happen to be present, and sometimes members of the transferer's lineage, and also owners of adjacent lands, and possibly, persons present as witnesses affix their signatures and marks. In other words, any one who is there.

The document is then delivered to the recipient of the land, be he purchaser, pledgee, rentor or beneficiary of a gift. Armed with this document, he can prove to everyone the legitimacy of his new personal relation to the plot. It is especially useful to show to outsiders, and more particularly, later on, to a professional judge. He is thus able to prove that his title to the land has a claim to legal protection, because he took pains to see that the legal act which established his title was "terang"—"took place in the light of day." The document is therefore written evidence (surat katerangan).

Undoubtedly the document in its operation between the two parties also has its functional place in the participant thinking of the population. But what that place is has still to be worked out. Conjectures that the document serves as a visible token in the sense of a binder, or as a means to transfer the relationship to the land in a materialized form, as it were, are rather Western conceptions that seem to lack essential contact with the content and context of the act itself. If the document may be compared to an original native institution, it may be said to be a reminder or recognition token (therefore evidence) like tree notches among the Rejang and the stone markers of Minangkabau.

The function of the signing of the document by the chief is easier to understand in native thought. He tangibly obligates himself henceforth to recognize the new relationship as a legal relationship.

I. LAND TRANSACTIONS WITH OUTSIDERS

The founding of villages at the command of princes, as a means of establishing a new sphere of authority, or as a favor obtained from the prince, is well enough known, especially, in Java and Bali.

12: Haar S-4 (1939) 1948 OBl Indonesia OBl
Java OEl
●Bali OF1

Such villages commonly have a special legal status (see page 73). Reclamation of arable fields outside the established boundaries of pre-existing communities is subject solely to the provisions of the princely legal systems, or that of the Dutch administration (page 104).

In areas where the local autonomous communities do not exist (where individual rights to land are directly dominated by the legal system of the prince or the Government) any two-party land transactions are subject to possible regulations by legislation. But any such regulations must be in actual harmony with the adat law described above. Most of the persons who are operating in the area of no-man's land maintain their link to the community from which they hail. They return to their community; they have their family ties and interests there. This is the fact that administrative regulation should not overlook.

To the extent that no formal regulations have been promulgated in a given extra-community area, we can assert in confidence that the going practices of land customs and usages coincide with those of the community from which the tillers come, so that the decisions of the prince's judges and Dutch judges ought to produce rules for the area that are similar to those which are already valid in the native sphere.

However, the universal question arises: "What replaces the role of the chiefs in land dealings outside of the community domain?" Registration at the office of an administrator in the Princedoms, or with the princely officials in Bali, are excellent examples of a good substitute for that missing feature. Unfortunately, there is no such provision in directly governed territories, or in the large towns where the village chiefs have disappeared, or for the groups living outside the regular native communities (the priyayi).

The surrender of native rights to land to the Government in order to convert arable lands into the "free national domain" suitable for reissuance to non-natives is a unilateral act, which is a part of the legal system of the Government and outside of the adat. This subdivision of "agrarian law" is in urgent need of revision.

12: Haar S-4 (1939) 1948 OB1 Indonesia OB1
Batak OD5
Bali OF7

I 423 the native possessor of them also leads to other legal notions concerning the cultivation of paddy, or like products, on someone else's ground. An illegal planting has to be surrendered in part to the true possessor of the land. Unlawful occupation in good faith is acknowledged by permitting the planter to keep a good share of the harvest (usually half) for his trouble and expenses. When the occupation was done in bad faith, the first object is to see to it that the owner of the field suffers no damage, but at the same time it is recognized that he does not need to be enriched out of proportion to the injury done him. A further conception would be that, in adat law, a lawful planter, who has been admitted by agreement to the use of someone else's land, e.g., a sharecropper, can be regarded as the native possessor of his harvest, part of which he is obliged to turn over to the land holder. The rule in Tnganan to the effect that when a field with green paddy under cultivation reverts to the village, the village gets the harvest when it is ready is in line with this principle.

BP [423] Bt I

I 422 [231] Ownership of cattle is sometimes limited by special rules concerning slaughtering and alienation. But these limitations are hardly so great as to keep us from calling the ownership of cattle a matter of native possession.

In the Batak lands, and in some other regions, joint-ownership of cattle frequently results from profit-sharing. In this case, a person may be the native possessor of one-fourth of a buffalo.

I [501] The possession of ships, such as family ownership of proas in South Celebes, does not give rise to any special points of interest in adat law.[1]

I 422 425 432 Something has already been said on page 107 concerning objects which can be transferred only by means of a "jual" transaction because of their magical relation to their native possessor. The direct person to person sale of ordinary objects involves nothing special. The term "menjual" customarily applies to this, too, and it always means "to sell for cash." It never means pledging or renting.

I 426 The pledging of chattels (mengankan in Malay; nyekelakè in Javanese) is accomplished by simply handing them over. Pledged goods must be kept a long time before the creditor may dispose of them or acquire title in himself. If the pledged goods are used,

[1] However, by a specific interpretation of article 1 of Staatsblad, 1933, No. 49, it is possible that the duty of registration entailed in Staatsblad, 1933, No. 48, can be applied to natives and this application of European law can lead to great difficulties.

a joint estate. However, it is possible to observe the tendency of weakening kinship bonds, resulting in the strengthening of the small-family possessions. And only in those cases in which (outside of kinship group influence) one of the spouses has a definite personal superiority, as in the Sundanese marriage of a rich woman with a poor man (nyalindung ka gelung), or vice versa (manggih kaya), does this superiority prevent the development of a common estate.

Moreover, practically everywhere each family possession consists in part of "harta suarang" (Minangkabau), "barang perpantangan" (Borneo), "chakkara" (Buginese and Macasser), "druwe gabro (Bali), "barang gini," "gana gini" (Java), "guna kaya" (Sunda).

Occasionally, a difference in the extent of the estate also reflects a difference in force of attraction of extended family property. Joint matrimonial property among the Minangkabau is the most narrowly circumscribed. Only those possessions which result from the activity of both the husband and the wife seem to become "harta suarang." However, even here social change, which replaces the extended family joint-houses with small-family homes, strengthens the tendency to joint ownership by husband and wife.

Ordinarily, however, the joint property of husband and wife consists of that which was acquired during marriage, while both husband and wife were active in behalf of the family. Even the last requirement may be omitted, so that any possessions acquired during marriage are common family property. In isolated instances a transitional condition exists, as in Bali, where personally acquired possessions (called guna kaya) are regarded as being owned in common by husband and wife after three years. Thus, the trend in the field of ownership of possessions is a shifting of the center of gravity from the kin group to the family.

The modern practice of giving presents to the bridal couple is followed by joint ownership of these presents.

All sorts of special legal questions arise. Fruits of personal property are sometimes regarded as jointly owned (South Celebes). But sometimes this is so only if the spouse who does not own the "asal" property collaborated in its acquisition. In Java, for instance, these would be the "asal" cattle, tended by the other spouse. The proceeds from sale or barter of "asal" property constitute "asal" property. If "asal" property is used for the needs of the family, the spouse who

12: Haar S-4 (1939) 1948 OB1 Indonesia OB1
Batak OD5
Bali OF7
Gorontalo OG4
Javanese OE5

CHAPTER XII

THE TIME FACTOR IN ADAT LAW

BOTH THE LAWS controlling land and those dealing with the relations between persons in the adat are subject to the influence of the passage of time. It is possible to speak of a fixed term of years after which a law is established or abandoned only when the fixing of such a term is actually known to have taken place, either through desa legislation (Bali), by princely orders, by government influence or by legal decisions from princely or government judges. In the unwritten law of the communities, it is either the demonstrable changes in the condition of the land brought about by time, for instance, which is a factor, or the failure to recall the exact circumstances which took place "long ago," which make it impossible to consider alleged claims as valid, and against which the other party is secure.

Individual rights to land cannot be maintained against claims of members, which are rooted in community law. They are lost, if traces of cultivation have disappeared on the land and if the land has become overgrown by brush. Rights to trees growing wild are lost when a new growth of bark has covered the identifying signs. The option of the man who clears the forest can be lost through the disappearance or destruction of his no-trespassing sign. In case of personal application of the collective right of disposal, it can happen that a despotic chief establishes a short term, within which the individual rights lapse in case the land is abandoned. He does this so he can give them out again and get paid for doing it.

A. THE INDONESIAN CONCEPT

In various law-areas, there are native legal terms which reflect the meaning "too long ago" or "cloudy because of the passage of time and therefore past and gone"—"ranan kotor" (Karo-Batak), "prakara lama" (Toba-Batak), "kedaluwarsa" (Javanese). With respect to pledging land, it is acceptable, both in native jurisprudence (Batak lands, Gorontalo) and in the government law system, that by long postponement of redemption of the land, the giver of the pledge loses his right to it. According to adat law, however,